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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/319,811 07/26/99 ALBERTINI C 76252

MM12/1012

WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

EXAMINER

NOORI, M

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 10/12/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/319,811

Applicant(s)
Albertinin et al.

Examiner
Max H. Noori

Group Art Unit
2855



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-16 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-16 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-2, and other claims, the term "in use" is redundant

Regarding claim 8, "the penultimate section" lacks proper antecedent basis.

Regarding claim 11, "the mechanical behavior" and "the section of the geological specimen" lack proper antecedent basis.

Regarding claims 1, 14 and 16, the phrase "for example", and regarding claim 1, the term "can be" and regarding claim 14, the term "such as" render the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 15 the term "the measuring instrument" lacks proper antecedent basis.

Regarding claim 16 "soshaped" should be changed to --so shaped--.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 16, are under 35 U.S.C. 102(b) as being anticipated by Dransfield et al.

Regarding claim 1 and 16, Dransfield et al., disclose a method and apparatus for generating a seismic waves with features of the claimed invention including an energy accumulator assembly (element 10), comprises means to act on a geological member, the assembly's function is based on combustion of explosive gas and is released to impact the geological member and transmits seismic wave to it. The energy accumulator is made of number of sections with different diameters (see claim 1, and upper part of element 10 in figure 1).

Regarding claims 2-4, the impact assembly consists of coaxial cylindrical sections (col. 10, line 3).

Regarding claims 5-7, the impact assembly consists of further stepped down portion and consists of two larger portions (see figure 1, the location of element 22 and upper part).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dransfield et al.

Dransfield et al., disclose a method and apparatus for generating a seismic waves teaching or suggesting features of the claimed invention. Dransfield et al., do not however specifically recite the same number of cylinders or the same length for the accumulator. It would have been obvious to one of ordinary skill in the art to modify Dransfield et al., to arrange for any number of cylinders or any desired length. Because when the cited art shows all the fundamental components of the invention, any one of such arrangements fails to provide for an unobvious advantage or a patentable distinction over other similar arrangements and is generally suggested by convenience or a desired intended use.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (703) 308-5248. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Fuller, can be reached on (703) 308-0079. The fax number for this group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

MHN
September 24, 1999


MAX NOORI
PRIMARY EXAMINER